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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

OREGON FIREARMS FEDERATION, INC.,)
et al.,)
	) Civil No.
Plaintiffs,	) 2:22-cv-01815-IM
v.	) (Lead Case)
)
TINA KOTEK, et al.,	) Civil No.
	) 3:22-cv-01859-IM
Defendants.	) (Trailing Case)
)
(Continued)	) Civil No.
	) 3:22-cv-01862-IM
	) (Trailing Case)
)
	) Civil No.
	) 3:22-cv-01869-IM
	) (Trailing Case)
)

* VIDEOCONFERENCE *

DEPOSITION UPON ORAL EXAMINATION
OF EXPERT

DENNIS E. BARON

Witness located in:
Champaign, Illinois

* All participants appeared via videoconference *

DATE TAKEN: March 30, 2023
REPORTED BY: Tia B. Reidt, Washington RPR, CCR #2798
Oregon # 22-0001

(continued)

MARK FITZ, et al.,

Plaintiffs,

v.

ELLEN F. ROSENBLUM, et al.,

Defendants.

KATERINA B. EYRE, et al.,

Plaintiffs,

v.

ELLEN F. ROSENBLUM, et al.,

Defendants.

DANIEL AZZOPARDI, et al.,

Plaintiffs,

v.

ELLEN F. ROSENBLUM, et al.,

Defendants.

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APPEARANCES

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* * * * *

1 of the rifle itself?

2 A. Yes.

3 Q. It could not be removed without disassembling the
4 rifle?

5 A. Apparently not.

6 Q. Would you agree that the dates on -- well, would
7 you agree that the same is true of the Henry and Spencer
8 rifles based on the patents that you just reviewed?

9 A. It seems to be the case, yes.

10 Q. Do you know anything about the Henry or Spencer
11 rifles?

12 A. No.

13 Q. And you would agree that the dates on all four of
14 these patents were before the ratification of the Fourteenth
15 Amendment; correct?

16 A. Right. Which was what, 1868?

17 Q. Yes.

18 A. Yeah.

19 MR. GALLAGHER: I am going to display one more
20 exhibit. Let me find it here. Exhibit 32.

21 This is from the third page of the New York Times
22 on Friday, December 23rd, 1864, offered as Exhibit 32.

23 (Exhibit 32 marked for identification.)

24 THE COURT REPORTER: Exhibit 32 has been marked.

25 ///

1 BY MR. GALLAGHER:

2 Q. Let's get this down to a more manageable size.

3 A. Yeah.

4 Q. Does that work for you, Professor?

5 A. That's better.

6 Q. Could you read the highlighted portions of this --
7 it's a paragraph, but I think it's also one sentence.

8 A. Yeah.

9 "An ordnance examining board. By special order of
10 the War Department, a board of the officers will convene at
11 the Springfield armory on the 4th of January, 1865, for the
12 purpose of examining, testing and recommending for adoption
13 a suitable breech loader for muskets and carbines and
14 repeater or magazine carbine."

15 Q. Would you agree that the phrase "repeater or
16 magazine carbine" indicates that repeater rifles or carbines
17 were considered synonymous with those that used magazines,
18 at least as is used in this sentence?

19 MR. PEKELIS: Object to form.

20 THE WITNESS: They seem to be synonymous.

21 BY MR. GALLAGHER:

22 Q. So taking --

23 A. Sorry. This is one that did not come up in my
24 newspaper searches, which is curious, because they did cover
25 the Times.

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1 Q. Did you run the phrase "magazine" through the New
2 York Times Times Machine archive?

3 A. No. I used newspapers.com, which also covers the
4 Times. It's a little easier to use.

5 Q. So stepping back from this specific document to
6 consider the four patents and the article as a whole, what
7 would this tell you about the use of the word "magazine" by
8 this period?

9 A. That -- what it would tell me is that people
10 involved in the manufacture of military firearms were
11 familiar with the term "magazine" in relation to what we
12 would loosely call the part that holds the bullets.

13 Q. Earlier, you said that when a term isn't explained
14 in a source, it often indicates familiarity with that term.
15 Is that correct?

16 A. Yes.

17 Q. And in the New York Times article we just looked
18 at, is the phrase "magazine" explained?

19 A. Only -- in my view, only insofar as it's listed as
20 a synonym for "repeater."

21 Q. And does that indicate --

22 A. Repeater --

23 (Speaking simultaneously. Unreportable
24 crosstalk.)

25 THE WITNESS: Sorry.

1 (Reporter clarification.)

2 BY MR. GALLAGHER:

3 Q. No. Professor, if you had anything else --

4 A. No. No. Ask your question.

5 Q. So it's only explained insofar as it indicates
6 that it's a synonym for "repeater." Does that indicate that
7 the term "repeater" and/or "magazine" would be understood by
8 the readership of the New York Times because there's not a,
9 as you said, an explanation given of those two terms beyond
10 one another?

11 A. It would suggest that, yeah.

12 Q. And the readership of the New York Times is the
13 general public, more or less?

14 A. More or less.

15 Q. Finally, whether or not they knew of the term --

16 A. Can I -- can I modify that statement?

17 Q. Sure.

18 A. In -- what is the date of this article?

19 Q. 1864.

20 A. Okay.

21 So the Times starts publishing in, what, 1858?

22 Q. '52, I think, but that's --

23 A. '52. '52. Okay. I knew -- I knew it was around
24 there.

25 The readership of the Times early on was -- I'm

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1 not sure it would be fair to characterize it as a national
2 newspaper at the time. We would think of it that way today,
3 but I think certainly, readers of the Times would be
4 expected to understand.

5 Q. Can you think of why this ordnance examining board
6 might have been page 3 news in the New York Times in 1864?

7 A. I can't say that, no.

8 Q. Would examining the rest of this article -- and
9 I'm happy to give you a second -- indicate why? It's not a
10 trick question.

11 A. It might help.

12 Q. Okay.

13 Take a second and --

14 A. (Speaking simultaneously.)

15 (Reporter asks parties to speak one at a time.)

16 BY MR. GALLAGHER:

17 Q. -- feel free to look the article over.

18 A. News from Washington.

19 Q. Maybe I can put it another way.

20 Was there anything going on in 1864 that would
21 cause the general public to be interested in developments in
22 military technology more so than usual?

23 A. Well, it was the Civil War period.

24 Q. Putting aside the linguistic term "magazine" for a
25 second, I assume you would agree that the users of the

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C E R T I F I C A T E

STATE OF WASHINGTON

COUNTY OF PIERCE

I, Tia Reidt, a Certified Court Reporter in and for the State of Washington, do hereby certify that the foregoing transcript of the deposition of DENNIS E. BARON, having been duly sworn, on March 30, 2023, is true and accurate to the best of my knowledge, skill and ability. Reading and signing was requested pursuant to FRCP Rule 30(e).

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 4th day of April, 2023.



/S/ Tia B. Reidt
Tia B. Reidt, RPR, CCR # 22-0001
NOTARY PUBLIC, State of
Washington.
My commission expires
5/15/2026.